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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,064	02/26/2004	John Tedesco	2606.001	9173

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MCHALE & SLAVIN, P.A.  
2855 PGA BLVD  
PALM BEACH GARDENS, FL 33410

EXAMINER

KOVACS, ARPAD F

ART UNIT PAPER NUMBER

3671

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/789,064

Applicant(s)

TEDESCO, JOHN

Examiner

Árpád Fábíán Kovács

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 8, 9, 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Objections***

1. Claims 10-11 are objected to because of the following informalities: claim 10 cannot depend from claim 8. Claim 8 is not part of the examination, it has been withdrawn per the 4/27/2005 amendment. Therefore, claims 10-11 could not be examined.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bower et al (5626009).

It is noted that although claims 10-11 are rejectable per the prior office action, however due to the dependency issue outlined above, these claims cannot be examined.

In re cl. 1:

An elongated handle (3), centerline, proximal & distal ends (fig 1, ref 3);

A means for cultivating, a means for grooming as claimed (col. 1, ln 14-47);

the means for grooming is a rake assembly including tines with a base end a center & a tip end diverging outwardly (see fig 2, ref 7), and a hook (see fig 1, at ref 7);

extended & retracted positions as shown in fig 2 & 3;

the rake is slidably mounted capable of being retracted or extended (as disclosed col. 3, ln 3-5);

In re cl. 2:

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the means for cultivating: a metal blade, generally U-shaped, a first & second cutting edges (fig 1, ref 5; col. 3, ln 6);

in re cl. 3:

the blade includes: two upright portions, a bottom portion (fig 1, ref 5); a ferrule portion (at ref 4 or 10);

in re cl. 4:

the handle includes a ferrule & at least two bosses (at ref 4; one is shown however same boss is on the other side), the upright portions of the blade including at least one aperture (see fig 1, at ref 5 upper portion);

in re cl. 5:

the ferrule includes at least one stop pin and cooperates with at least one elongated slot formed in the upright portions of the blade allowing slight pivot (col. 3, ln 6-12; the elongated slot is through at the head of bolt ref 6 or fig. 1, while the pin is shown in fig 2, bolt ref 6);

in re cl. 6:

the blade: the bottom portion is "about" flat (see fig 1 or 2);

in re cl. 7:

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the blade: oriented at an obtuse angle (fig 1).

***Response to Arguments***

4. Applicant's arguments filed 4/27/2005 have been fully considered but they are not persuasive.

As the Applicant argued on page 9, that applicant's rake head tines are fixed in position, while Bower's is collapsed, the Examiner would like to point out that the applicant's disclosure recites non-fixed rake head tines as shown in fig 3 & 4.

Therefore, utilizing either embodiment fixed or non-fixed would be well within the skill in the art at the time the invention was made. It is further noted, that "fixed" does not set forth any structure, therefore Bower's device can be construed as meeting the limitations now set forth in the amended claim 1.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

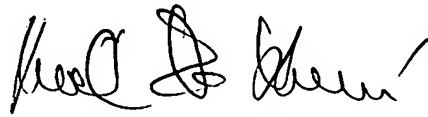
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK